

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of CASANDRA NICHOLS and
JESSE THAYER, Minors.

FAMILY INDEPENDENCE AGENCY,

Petitioner-Appellee,

v

KIMBERLY THAYER,

Respondent-Appellant.

UNPUBLISHED

August 24, 2004

No. 253111

Kent Circuit Court

Family Division

LC No. 92-030400-NA

Before: Hoekstra, P.J., and Cooper and Kelly, JJ.

MEMORANDUM.

Respondent appeals as of right from the trial court order terminating her parental rights to the minor children under MCL 712A.19b(3)(b)(ii), and (j). We affirm.

The trial court did not clearly err in finding that the statutory grounds for termination were established by clear and convincing evidence. MCR 3.977(J); *In re Miller*, 433 Mich 331, 337; 445 NW2d 161 (1989). The principal condition that led to the adjudication was respondent's failure to protect her children from sexual abuse. Respondent stipulated to the factual basis for termination of parental rights.

Further, the evidence failed to show that termination of respondent's parental rights was clearly not in the children's best interests. MCL 712A.19b(5); *In re Trejo*, 462 Mich 341, 356-357; 612 NW2d 407 (2000). Testimony at trial demonstrated that the children and an older sibling had suffered sexual abuse by respondent's live-in boyfriend and that respondent had been aware of the abuse of the older sibling and had not prevented further occurrences. The uncertainty over their own placement was affecting the children's mental and emotional well-being. Thus, the trial court did not err in terminating respondent's parental rights to the children.

Moreover, because the FIA requested termination of respondent's parental rights at the initial adjudication, respondent was not entitled to a parent-agency agreement because there was never a plan to return the children to respondent. Therefore, the FIA did not err in failing to give respondent an agreement or provide her with services, and respondent's argument in this regard is without merit. While respondent alleges the trial court compared Casandra's foster home to that of respondent, a review of the record demonstrates that no comparison was made.

Affirmed.

/s/ Joel P. Hoekstra
/s/ Jessica R. Cooper
/s/ Kirsten Frank Kelly